

REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on January 26, 2009. The Applicants respectfully request reconsideration of the present application. At the time the Examiner mailed the Office Action claims 1-7 were pending.

By way of the present response the Applicants have amended claims 1 and 6.

Applicants reserve all rights with respect to the applicability of the Doctrine of Equivalents.

Claims 1, 2, 3, 5, 6, and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ali, U.S. Patent Publication No. 2002/0039944 (hereinafter "Ali"); in view of Henderson, U.S. Patent No. 4,906,222 (hereinafter "Henderson").

Ali discloses an accessory belt drive system 10 having a dual tensioner 28. The tensioner 28 includes first tensioner pulley 16, second tensioner pulley 26, resilient member 38, pivot bolt 40, first connective arm 42 and second connective arm 44, damper shoe 46, damper race 48, mounting plate 50, first pulley bolt 52, second pulley bolt 54, bushing 56, washer 57, pivot post 58, first arm hub 60, and second arm hub 62. First and second pulleys 16 and 26 are journaled upon first and second connective arms 42 and 44, respectively, by ball bearing assemblies. (Ali, paragraph [0043]).

Applicants agree with the Examiner in that Ali fails to teach or disclose the limitations "said arms (23, 24) comprising respective first arrest elements (37, 47),

which are designed to interact with said fixed portion (21) to define respective first positions of arrest of said arms (23, 24) under the action of said elastic means (27), and respective second arrest elements (38, 39; 48, 49), which are designed to interact with said fixed portion (21) to define respective second positions of end-of-travel of said arms (23, 24) under the action of the pull of said belt (15)" and "said belt tensioner being characterized in that said fixed portion (21) includes an appendage (32) fixed to said base plate (30) and defining an element of contrast for said first and second arrest elements (38, 39; 48, 49) of said arms (23, 24)" as recited in previous claim 1. (Office Action, 01/26/09, page 4).

In contrast to amended claim 1, Ali fails to teach or disclose first and second arrest elements and also a single appendage that defines an element of contrast from the first and second arrest elements of respective first and second arms. Ali fails to teach or disclose the limitations "said arms (23, 24) comprising respective first arrest elements (37, 47), which are designed to interact with said fixed portion (21) to define respective first positions of arrest of said arms (23, 24) under the action of said elastic means (27), and respective second arrest elements (38, 39; 48, 49), which are designed to interact with said fixed portion (21) to define respective second positions of end-of-travel of said arms (23, 24) under the action of the pull of said belt (15)" and "said belt tensioner being characterized in that said fixed portion (21) includes a single appendage (32) fixed to said base plate (30) and defining an element of contrast for said first and second arrest elements (38, 39; 48, 49) of said arms (23, 24)" as recited in amended claim 1.

Therefore, Ali does not disclose or suggest the limitations stated in amended claim 1.

Adding the teachings of Henderson to Ali fails to cure Ali's deficiencies. Henderson reads as follows.

In order to limit rotary movement of the arm 25 relative to the support means 21, the recess 62 in the arm 25 is formed in such a manner that the recess 62 defines a pair of opposed stop edges 74 and 75 between which the part 67 of the extension 63 of the arm plate means 53 is disposed. In this manner, opposed side edges 76 and 77 of the part 67 of the extension 63 are adapted to be respectively engaged by the stops 74 and 75 of the arm 25 so as to limit rotary movement of the arm 25 in opposite directions thereof relative to the stationary arm plate means 53. (Henderson, col. 6, lines 33-44).

Thus, Henderson discloses a single arm having opposed stop edges 74 and 75, which engage side edges 76 and 77 of part 67 of the extension 63 to limit rotary movement of the arm 25.

The Examiner is characterizing the combination of parts 65, 67, and 53 as corresponding to an appendage. The extension 63 of the arm plate means 53 can be interconnected to the projection 65 of the housing means 28 in any suitable manner, the extension 63 illustrated in the drawings is provided with a slot means 70 therein that defines an edge 71 at the free end 72 of the extension 63 that is adapted to engage against a surface 73 of the projection 65 when the projection 65 is received in the slot 70 whereby the outward cocking force of the arm 25 against the extension 63 is retarded by the edge 71 of the extension 63 engaging the surface 73 of the projection 65 of the housing means 28. (Henderson, col. 6, lines 1-12). (emphasis added).

In contrast to amended claim 1, Henderson fails to disclose or teach that

the extension 63 is fixed to housing means 28 because Henderson merely discloses that the extension 63 is adapted to engage against the projection 65 of the housing means 28. Henderson fails to disclose a single appendage for defining an element of contrast for stops 74 and 75 because Henderson discloses a combination of parts 65, 67, and 53 for opposing stops 74 and 75. Henderson fails to teach or disclose two arms with each arm having respective stops 74 and 75 and a single fixed appendage to interact with the respective stops 74 and 75. Thus, Henderson fails to teach or disclose the limitations "said arms (23, 24) comprising respective first arrest elements (37, 47), which are designed to interact with said fixed portion (21) to define respective first positions of arrest of said arms (23, 24) under the action of said elastic means (27), and respective second arrest elements (38, 39; 48, 49), which are designed to interact with said fixed portion (21) to define respective second positions of end-of-travel of said arms (23, 24) under the action of the pull of said belt (15)" and "said belt tensioner being characterized in that said fixed portion (21) includes a single appendage (32) fixed to said base plate (30) and defining an element of contrast for said first and second arrest elements (38, 39; 48, 49) of said arms (23, 24)" as recited in amended claim 1.

Therefore, Henderson does not disclose or suggest the limitations stated in amended claim 1.

It is respectfully submitted that Ali does not suggest a combination with Henderson, and Henderson does not suggest a combination with Ali. Ali discloses that first and second connective arms are biased toward each other with resilient

member 38 with no arrestors or stops being disclosed while Henderson discloses a single arm with stops 74 and 75. It would be impermissible hindsight to combine Ali with Henderson based on applicants' own disclosure.

Additionally, even if one of ordinary skill in the art tried to modify the two-arm tensioner of Ali in view of the teaching of Henderson, he would at most apply the teaching of Henderson to each of the arms of Ali. Thus, a first arm would have first and second stop elements interacting with a first combination of parts and a second arm would have third and fourth stop elements interacting with a second combination of parts. Therefore, it would NOT be obvious to one of ordinary skill in the art to combine Ali and Henderson to form a single appendage being configured to interact with first and second arrest elements of each respective arm.

Furthermore, even if Ali and Henderson were combined, such a combination would lack the limitations "said arms (23, 24) comprising respective first arrest elements (37, 47), which are designed to interact with said fixed portion (21) to define respective first positions of arrest of said arms (23, 24) under the action of said elastic means (27), and respective second arrest elements (38, 39; 48, 49), which are designed to interact with said fixed portion (21) to define respective second positions of end-of-travel of said arms (23, 24) under the action of the pull of said belt (15)" and "said belt tensioner being characterized in that said fixed portion (21) includes a single appendage (32) fixed to said base plate (30) and defining an element of contrast for said first and second arrest elements (38, 39; 48, 49) of said arms (23, 24)" as recited in amended claim 1.

Therefore, in view of the above distinction, neither Ali nor Henderson, individually or in combination, disclose each and every limitation of claim 1. As such, amended claim 1 and associated dependent claims are not rendered obvious by Ali in view of Henderson under 35 U.S.C. § 103(a).

Independent claim 6, as amended, includes similar, but not identical, limitations in comparison to amended claim 1. For the reasons noted above, it is submitted that independent claim 6 and dependent claim 7 are not rendered obvious by Ali in view of Henderson under 35 U.S.C. § 103(a).

Claims 4 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ali, in view of Henderson, as set forth in the discussion of Claim 1, and further in view of Oliver, U.S. Patent No. 6,689,001 (hereinafter "Oliver").

Claims 4 and 5 depend from and include the limitations of independent claim 1 noted above. It is submitted that Oliver fails to cure the deficiencies of Ali and Henderson noted above with respect to claim 1 and, therefore, claims 4 and 5 are patentable over the combination of cited references.

CONCLUSION

Applicant respectfully submits that all rejections have been overcome.
If there are any additional charges, please charge them to our Deposit
Account Number 02-2666. If a telephone conference would facilitate the
prosecution of this application, the Examiner is invited to contact Jeremy
Schweigert at (408) 720-8300.

Respectfully Submitted,
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